

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1269

Introduced by Assembly Member Brownley

February 27, 2009

An act to amend Section 14007.9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1269, as amended, Brownley. Medi-Cal: eligibility.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is partially governed and funded by federal Medicaid provisions.

Existing law, subject to the receipt of federal financial participation, requires the department to adopt a federal option under which any employed individual with a disability who meets specified income and resource requirements, shall be eligible for benefits under the Medi-Cal program, subject to the payment of premiums.

This bill would, *to the extent that federal financial participation is available*, authorize individuals who are otherwise eligible under this program but who are temporarily unemployed to elect to remain on Medi-Cal pursuant to these provisions for a period up to 26 weeks, as provided. This bill would also provide additional resource exemptions in determining Medi-Cal eligibility under these provisions. The bill would extend specified resource exemptions to apply for the beneficiary under any other Medi-Cal program under which the beneficiary later

becomes eligible for medical assistance where that eligibility is based on age, blindness, or disability.

Existing law requires individuals who are eligible for Medi-Cal benefits pursuant to these provisions to be subject to premiums that are determined by a sliding scale that is based on countable income, as provided.

This bill, not later than March 1, 2010, would, instead, require each individual to pay a monthly premium that is equal to 5% of his or her individual or spousal countable income, as described, except that the premium cannot fall below or exceed a specified minimum and maximum premium payment, as provided.

The bill would require the above-described provisions to be implemented only to the extent that federal financial participation is available, and only to the extent that the department seeks and obtains approval of all necessary state plan amendments.

Because counties are required to make Medi-Cal eligibility determinations and this bill would extend the expansion of Medi-Cal eligibility, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14007.9 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14007.9. (a) (1) The department shall adopt the option made
- 4 available under Section 1902(a)(10)(A)(ii)(XIII) of the federal
- 5 Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(ii)(XIII)). In
- 6 order to be eligible for benefits under this section, an individual
- 7 shall be required to meet all of the following requirements:
- 8 (A) His or her net countable income is less than 250 percent of
- 9 the federal poverty level for one person or, if the deeming of
- 10 spousal income applies to the individual, his or her net countable

1 income is less than 250 percent of the federal poverty level for
2 two persons.

3 (B) He or she is disabled under Title II of the federal Social
4 Security Act (Subch. 2 (commencing with Sec. 401), Ch. 7, Title
5 42 U.S.C.), Title XVI of the federal Social Security Act (Subch.
6 16 (commencing with Sec. 1381), Ch. 7, Title 42, U.S.C.), or
7 Security Act (42 U.S.C. Sec. 401 et seq.), Title XVI of the federal
8 Social Security Act (42 U.S.C. Sec. 1381 et seq.), or Section
9 1902(v) of the federal Social Security Act (42 U.S.C. Sec.
10 1396a(v)). An individual shall be determined to be eligible under
11 this section without regard to his or her ability to engage in, or
12 actual engagement in, substantial gainful activity, as defined in
13 Section 223(d)(4) of the federal Social Security Act (42 U.S.C.
14 Sec. 423(d)(4)).

15 (C) Except as otherwise provided in this section, his or her net
16 nonexempt resources, which shall be determined in accordance
17 with the methodology used under Title XVI of the federal Social
18 Security Act (42 U.S.C. Sec. 1381 et seq.), are not in excess of the
19 limits provided for under those provisions.

20 (2) To the extent federal financial participation is available,
21 individuals otherwise eligible under this section, but who are
22 temporarily unemployed, may elect to remain on Medi-Cal under
23 this section for up to 26 weeks, provided the individuals continue
24 to pay premiums during the temporary period of unemployment.

25 (b) (1) Countable income shall be determined under Section
26 1612 of the federal Social Security Act (42 U.S.C. Sec. 1382a),
27 except that the individual's disability income, including all federal
28 and state disability benefits and private disability insurance, shall
29 be exempted. Resources excluded under Section 1613 of the federal
30 Social Security Act (42 U.S.C. Sec. 1382b) shall be disregarded.

31 (2) Resources in the form of employer or individual retirement
32 arrangements authorized under the Internal Revenue Code shall
33 be exempted as authorized by Section 1902(r) of the federal Social
34 Security Act (42 U.S.C. Sec. 1396a(r)).

35 ~~(3) To the extent that federal financial participation is available~~
36 ~~under Section 1902(r)(2) of the federal Social Security Act (42~~
37 ~~U.S.C. Sec. 1396a(r)(2)), retained earned income of an eligible~~

38 (3) *Retained earned income of an eligible* individual who is
39 receiving health care benefits under this section shall be considered
40 an exempt resource when held in a separately identifiable account

1 and not commingled with other resources, *as authorized by Section*
2 *1902(r)(2) of the federal Social Security Act (42 U.S.C. Sec.*
3 *1396a(r)(2))*.

4 (4) Social security disability income that converts to social
5 security retirement income upon the retirement of an individual,
6 including any increases in the amount of that income, shall be
7 exempt. The department shall submit a state plan amendment for
8 this specific exemption, and the exemption shall be implemented
9 only if, and to the extent that, the state plan amendment is
10 approved.

11 (c) All resources exempted pursuant to paragraph (2) of
12 subdivision (b) for an individual who is receiving health care
13 benefits under this section shall continue to be exempt under any
14 other Medi-Cal program that is subject to Section 1902(r)(2) of
15 the federal Social Security Act (42 U.S.C. Sec. 1396a(r)(2)) under
16 which the beneficiary later becomes eligible for medical assistance
17 where that eligibility is based on age, blindness, or disability. The
18 department shall submit a state plan amendment for this specific
19 exemption, and the exemption shall be implemented only if, and
20 to the extent that, the state plan amendment is approved.

21 (d) After an individual is determined eligible for Medi-Cal
22 benefits under this section, the individual's countable income, as
23 determined under Section 1612 of the federal Social Security Act
24 (42 U.S.C. Sec. 1382a), shall be used to determine the amount of
25 the individual's required premium payment, as described in
26 subdivision (f). Disability income and converted retirement income
27 made exempt under paragraph (1) of subdivision (b) for eligibility
28 purposes shall be considered countable income for purposes of
29 determining the amount of the required premium payment.

30 (e) Medi-Cal benefits provided under this chapter pursuant to
31 this section shall be available in the same amount, duration, and
32 scope as those benefits are available for persons who are eligible
33 for Medi-Cal benefits as categorically needy persons and as
34 specified in Section 14007.5.

35 (f) (1) Individuals eligible for Medi-Cal benefits under this
36 section shall be subject to the payment of premiums determined
37 under this subdivision. Each individual shall pay a monthly
38 premium that is equal to 5 percent of his or her individual countable
39 income, as defined in subdivision (d), or if the deeming of spousal
40 income of an ineligible spouse applies, a monthly premium that

1 is equal to 5 percent of the total countable income of both spouses,
2 except that the minimum premium payment per eligible individual
3 shall be twenty dollars (\$20) per month, and the maximum
4 premium payment per eligible individual shall be two hundred
5 fifty dollars (\$250) per month.

6 (2) The amendments made to this subdivision during the
7 2009–10 Regular Session shall be implemented no later than March
8 1, 2010.

9 (g) In order to implement the collection of premiums under this
10 section, the department may develop and execute a contract with
11 a public or private entity to collect premiums, or may amend any
12 existing or future premium-collection contract that it has executed.
13 Notwithstanding any other provision of law, any contract developed
14 and executed or amended pursuant to this subdivision is exempt
15 from the approval of the Director of General Services and from
16 the Public Contract Code.

17 (h) Notwithstanding the rulemaking provisions of Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3 of Title
19 2 of the Government Code, the department shall implement,
20 without taking any regulatory action, this section by means of an
21 all-county letter or similar instruction. Thereafter, the department
22 shall adopt regulations in accordance with the requirements of
23 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
24 3 of Title 2 of the Government Code.

25 (i) Notwithstanding any other provision of law, this section shall
26 be implemented only if, and to the extent that, the department
27 determines that federal financial participation is available pursuant
28 to Title XIX of the federal Social Security Act (42 U.S.C. Sec.
29 1396 et seq.) and only to the extent that the department seeks and
30 obtains approval of all necessary Medicaid state plan amendments.

31 (j) If any provision of this section, or its application, is held
32 invalid by a final judicial determination, it shall cease to be
33 implemented. A determination of invalidity shall not affect other
34 provisions or applications of this section that can be given effect
35 without the implementation of the invalid provision or application.

36 SEC. 2. If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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